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Part 1  
REPORT

*Of the Secretary of the Treasury, on the case of John Bate.*

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DECEMBER 24, 1817.

Read, and ordered to lie upon the table.

DECEMBER 24, 1817.

Referred to the Committee of Claims.

JANUARY 6, 1818.

Bill reported with amendments, and committed to a committee of the whole House on Monday next.

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TREASURY DEPARTMENT,

December 22, 1817.

The Secretary of the Treasury, to whom the bill for the relief of John Bate was referred, by the resolution of the House of Representatives of the 15th instant, has the honor to

REPORT:

That the petitioner did, on the 17th day of March, 1814, lease from the United States, for the term of three years, the public salt works on the Wabash, in the Illinois territory, upon the terms and conditions set forth in the said petition.

That the petitioner claims relief upon three grounds; 1st, that in the months of April and May, 1815, the Ohio river rose to a height never known before, and that the salt works were consequently inundated for a great length of time, during those months, so as to be not only incapable of being worked, but that great and serious injury was done to the permanent works and improvements which had been previously erected, and for which he had paid a large sum of money.

2 That independent of the loss thus incurred, the inundation of the Ohio still further operated to his injury, by deteriorating the quality of the water from which the salt was manufactured, and by diminishing the quantity produced by the wells from which the supply was obtained.

And 3d. That in consequence of the deterioration of the quality, and diminution of the quantity of the water, it became necessary to greatly increase the permanent works, in order to make the quantity

of salt stipulated by the lease, and that the works consequently were greatly increased at a very heavy expense to the petitioner; but the previous consent of the government was not obtained, as required by the conditions of the lease. That although the previous consent of the government was not expressly given, the petitioner conceives himself entitled to indemnity, for the improvements he made of a permanent nature, inasmuch as they were made with the knowledge and implied consent of the agent of the government, residing near the premises, and the government itself upon being notified of the fact, did not express its dissent or disapprobation.

It may be proper to observe, that the testimony offered by the petitioner, has been taken with the express view to the establishment of his claim for relief, and that no cross examination of the witnesses on the part of the United States has been had. Admitting, however, that the evidence offered is unimpeachable, the fact of an extraordinary inundation in the river Ohio, at the time alleged in the petition, which overflowed the salt works for a considerable portion of the months of April and May, by which the manufacture of salt was entirely suspended, appears to be well established.

By the same testimony it satisfactorily appears, that the quality of the water from the time of that inundation, through the remainder of the term was greatly deteriorated, and that the quantity was considerably diminished.

That the quality of the water, should for some time after the inundation be considerably injured, might have been reasonably anticipated, even in the absence of positive testimony, but that the quantity should have also been affected in the same, or in any degree, cannot be so readily conceived, and must therefore depend upon the credence to which the evidence is entitled.

As the improvements which the petitioner alleges he made in the salt works, during the time he had them in possession, would have been a legal charge against the government, if the assent of the executive had been obtained. This claim under the peculiar circumstances of the case, would have been allowed in the settlement of the petitioner's account, had that been the only obstacle to a final adjustment.

Upon the propriety of granting relief upon the two first grounds, upon which the petitioner rests his application, the House of Representatives is much better qualified to decide than the Secretary of the Treasury. Testing this claim however, by those rules which govern the transactions of individuals, it may well be doubted whether the petitioner is entitled to the relief which he claims. Had the earthquakes and inundations, to which the change in the water, injurious to the petitioner, has been ascribed, improved its quality and quantity in as great a degree, as it is alleged that it has been injured, it is not presumed that the United States could have established its claim, even in a court of equity to a proportional increase of the rent stipulated to be paid by the lessee. If this opinion be correct, the rule by

which relief is to be granted in this case, is arbitrary, always operating to the injury, and never to the benefit of the government.

By comparing the rent agreed to be given by the petitioner, with that which had been previously given, and which is now proposed to be given, it is believed that he made an improvident contract, which, together with the accidents which occurred during the term of his lease, will subject him to great loss, if not to eventual ruin, unless relief to some extent be granted.

How far considerations of this nature ought to influence the decision of his case, is not the subject of inquiry.

The case of the petitioner which is exempt from all immorality, the loss which he will sustain by his improvidence and by casualties beyond his control, seem to justify the exercise of as much liberality in his favor, as in any case which will probably be presented to the consideration of Congress.

All of which is respectfully submitted.

WILLIAM H. CRAWFORD.

*The Honorable Henry Clay,*

*Speaker of the House of Representatives.*

